

205.5372 Specific authorization from General Assembly required to exercise state's option to develop basic health program under federal law or make changes to eligibility, coverage, or benefits -- Fiscal impact assessment required -- Construction.

- (1) Notwithstanding any provision of law to the contrary, including but not limited to KRS 205.460 and 205.520, the cabinet shall not, unless required by federal law, exercise the state's option to develop a basic health program as permitted under 42 U.S.C. sec. 18051 or make any change to eligibility, coverage, or benefits in the Medicaid program, including by pursuing or applying for a waiver of federal Medicaid law under Title 42 of the United States Code, seeking to amend or renew an existing waiver granted under Title 42 of the United States Code, or pursuing a state plan amendment, without first obtaining specific authorization from the General Assembly to do so.
- (2) If the cabinet seeks authorization from the General Assembly to establish a basic health program, apply for a waiver under Title 42 of the United States Code, amend an existing waiver granted under Title 42 of the United States Code, submit a state plan amendment, or make any other change to eligibility, coverage, or benefits in the Medicaid program, the cabinet shall submit a detailed assessment of the potential fiscal impact of the change for which it is seeking authorization to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review. The fiscal impact assessment required by this subsection shall include a review of any anticipated expenditures related to the change and any projected savings that may be generated by the change for at least two (2) consecutive state fiscal years.
- (3) If the cabinet seeks authorization from the General Assembly to renew an existing waiver granted under Title 42 of the United States Code, the cabinet shall be required to submit a fiscal impact assessment as described in subsection (2) of this section and an assessment of the efficacy and necessity of the existing waiver. The assessments required by this subsection shall be submitted to the Legislative Research Commission for referral to the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review at least twelve (12) calendar months prior to the date on which the existing waiver is set to expire.
- (4)
 - (a) This section shall not be interpreted as limiting the General Assembly's ability to direct the cabinet to make changes to the Medicaid program, including but not limited to changes to existing waivers, eligibility, coverage, or benefits.
 - (b) Any act of the General Assembly directing the Cabinet for Health and Family Services or the Department for Medicaid Services to make a change to the Medicaid program shall constitute authorization for that change as required by subsection (1) of this section.
- (5)
 - (a) This section shall not be interpreted as limiting the cabinet's ability to make changes to the Medicaid program that it determines are necessary:

1. To comply with any requirements that may be imposed by federal law or by the federal Centers for Medicare and Medicaid Services;
 2. In response to a national emergency declaration issued by the President of the United States;
 3. In response to a federal disaster declaration issued by the President of the United States; or
 4. In response to a state of emergency declared by the Governor of the Commonwealth.
- (b) If the cabinet determines that a change to the Medicaid program is necessary to comply with requirements imposed by federal law, the cabinet shall, at least ninety (90) days prior to implementing the necessary changes, submit an assessment of the potential fiscal impact, as described in subsection (2) of this section, of those changes to the Legislative Research Commission for referral to the Medicaid Oversight and Advisory Board, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Families and Children, the Interim Joint Committee on Health Services, and the Office of Budget Review.
- (c) If the cabinet determines that a change to the Medicaid program is necessary to respond to a national emergency declaration or federal disaster declaration issued by the President of the United States or a state of emergency declared by the Governor of the Commonwealth, any such change shall be temporary in nature and shall only be in effect for the duration of the emergency or disaster declaration.
- (6) Subsection (1) of this section shall not apply to:
- (a) Medicaid directed or supplemental payment programs initially approved by the federal Centers for Medicare and Medicaid Services prior to March 27, 2025, including but not limited to:
 1. Those payment programs established in KRS 205.5601 to 205.5603, 205.6405 to 205.6408, 205.6411, and 205.6412, and 907 KAR 10:015 and 907 KAR 10:830; and
 2. Any other payment program for a university hospital as defined in KRS 205.639; or
 - (b) The Medicaid preferred drug list established by the Department for Medicaid Services as required under KRS 205.5514.
- (7) As used in this section, the term "Medicaid program" includes the Kentucky Medical Assistance Program established in KRS 205.510 to 205.5630 and the Kentucky Children's Health Insurance Program established in KRS 205.6483.

Effective: March 27, 2025

History: Amended 2025 Ky. Acts ch. 110, sec. 1, effective March 27, 2025. -- Created 2022 Ky. Acts ch. 211, sec. 6, effective July 14, 2022.